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a layman to see, as few lawyers really see, what is meant by the "flexibility" of case law. When he says (p. 255) that "the case law deals with the actual phenomena, while the code law deals with human abstractions from the phenomena as the counters for its reasoning," he has really gone to the bottom of the question.

The reviewer, however, cannot accept the statement that statutory law properly deals with "indifferent conduct," and case law with "ethical conduct"; and he is obliged to protest against the assertion (p. 447) that this distinction is substantially equivalent with the distinction which he¹ and others have drawn between public and private law. Public law, in this latter distinction, is taken in the Roman sense, as including all law which primarily subserves social rather than individual utilities, and of this law a very considerable portion is distinctly ethical.

It is to be regretted that, in a work written for laymen, the author should have ignored that argument against codification in our country which the American layman most readily comprehends — namely, that our common law is still substantially common to all the United States, and that state codes are practically acts of secession.²

MUNROE SMITH.

The Referendum in Switzerland. By SIMON DEPLOIGE, Advocate. With a Letter on the Referendum in Belgium, by M. J. VAN DEN HEUVEL, Professor of International Law at the University of Louvain. Translated into English by C. P. TREVELYAN, M.A., Trinity College, Cambridge. Edited with Notes, Introduction and Appendices by LILIAN TOMN, Girton College, Cambridge. London, New York, and Bombay, Longmans, Green & Co., 1898. — lxviii, 334 pp.

The book before us gives a timely account of the great democratic experiment in the country which, above all others, is the home of democracy. It contains within the compass of three hundred pages all the information in regard to the democratic institutions of Switzerland that even those most interested in such subjects are likely to need. It is not so much a discussion of the referendum as a scholarly account, at once brief and in detail, of what the referendum is and how it works; and it therefore enables the reader to form an opinion of his own on the basis of all the facts bearing upon the question,

¹ POLITICAL SCIENCE QUARTERLY, II, 122 *et seq.*

² *Ibid.*, III, 136-164.

including the views of the leading Swiss statesmen. Of the three chapters, the first presents the historical development, the second describes present conditions, and the third deals with results.

In the *Landesgemeinde* direct legislation by the people has existed since the thirteenth century. In regard to these primitive democracies the author gives us some interesting information. They were not, it seems, free from corruption.

A bailiwick was a snug berth for the man who could obtain the appointment by winning the sovereign's favor. In this case, however, the sovereign was an aggregate of some thousands of peasants, all of them men leading hard and parsimonious lives. The way to the hearts of such men was not to be found by mere flattery. A bribe of money, a good meal or a flagon of wine were [*sic*] better means to the end, a fact which soon became apparent to any candidate. Already as far back as the sixteenth century the *Landesgemeinden* are found legislating against the abuse.

The failure of these laws is shown by the subsequent efforts to give to the practice an appearance of legality by requiring the candidate to provide a dinner for the electors, for which "in later times a sum of money was substituted, to be distributed in whole or in part among the voters." The maintenance of order in these assemblies does not seem always to have been an easy task.

At Schwyz no one was allowed to carry a stick, and if a disturbance occurred the combatants were imprisoned on the spot. At Glarus the disturber of the peace was deprived of his sword and of all political rights.

In the course of this same chapter on the evolution of democracy, the author shows how representative government in the cantons, which had been placed on a democratic basis after the July Revolution, was undermined by the adoption of the referendum, which in 1874 was introduced into the Confederation itself. Characteristic of the author's method is the summary which he gives of the discussion which on this occasion took place in the Federal Assembly.

After giving in the second chapter a careful account of the referendum and the popular initiative as they exist to-day, the author proceeds in the third chapter to inquire whether this democratic experiment is to be pronounced a success. A very useful table gives the laws and ordinances which in the Confederation have been submitted to the referendum down to February 20, 1898, together with the date of each vote, the number of signatures demanding the referendum, and the number of affirmative and negative votes. This table is made the basis of an examination in the text of the working of the referendum

in particular cases. The editor has done the reader a service by continuing the list beyond 1892, the year in which this book was published at Brussels, and by adding a note of twelve pages, in which the measures submitted to a popular vote since that date are carefully summarized. To show the Swiss view of the working of the referendum the utterances of Swiss statesmen and publicists are quoted.

The author's own opinion may be given in two brief extracts from his closing pages :

The experiment of the democrats cannot be said to have met with success. . . . It requires that each voter should be able to understand why legislation is necessary, and also should be able to judge whether the law in question is adequate to meet the case.

The forty-page letter of Professor van den Heuvel, published as an introduction to this volume, is an argument against importing the referendum into Belgium. For the English edition the translator has written an introduction giving a brief account of Swiss political institutions.

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Democracy: A Study of Government. By JAMES H. HYSLOP.
New York, Charles Scribner's Sons, 1899.—xiii, 300 pp.

Political development is regarded by Professor Hyslop as the reflex of philosophical conceptions. Thus, a society made up of a congeries of tribal organizations, without a highly organized central government, is the social equivalent of polytheism and its concomitant atomistic type of philosophy. Imperialism, on the other hand, has followed the decline of polytheism and the adoption of monistic conceptions. To monistic ideas, according to Professor Hyslop, are traceable the ambitious projects of Persia under Xerxes, of Greece under Alexander, of Rome under Cæsar, of the Franks under Charlemagne, of France under Napoleon. Such speculations upon the connection between philosophical conceptions and politics occupy much space in the book; and the author holds that by means of philosophy man becomes conscious of the forces and ideas which determine his destiny and is enabled to give rational aid to the process of human development.

In approaching the problems of government presented by the extension of political privileges among the mass of the people, the author takes as his starting point the political philosophy of Hobbes,